

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

ARBERLIE WALLER,	)	
	)	
Petitioner,	)	
	)	
v.	)	1:14CV338
	)	1:05CR75-1
UNITED STATES OF AMERICA,	)	
	)	
Respondent.	)	

ORDER

BEATY, District Judge.

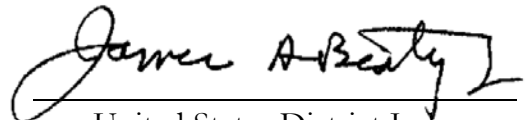
On June 12, 2014, the Recommendation of United States Magistrate Judge [Doc. #34] was filed and notice was served on the parties pursuant to 28 U.S.C. § 636(b). In the Recommendation, the Magistrate Judge recommended that Petitioner's Motion to Vacate, Set Aside, or Correct Sentence pursuant to 28 U.S.C. § 2255 [Doc. #28] be granted, that Petitioner's Judgment [Doc. #13] be vacated, and that the Indictment [Doc. #1], Supervised Release Violation Petition [Doc. #21], and Amended Supervised Release Violation Petition [Doc. #23] be dismissed. To the extent that Petitioner made any payments toward the \$100 special assessment, the Magistrate Judge recommends that those amounts be returned to Petitioner. No objections were filed within the time limits prescribed by § 636.

In the absence of objections, this Court reviews the Recommendation only for clear error. See Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005); Fed. R. Civ. P. 72 advisory committee's note. The Court has appropriately reviewed the Recommendation. Having done so, the Court finds that no clear error exists and the Recommendation should be adopted. The Magistrate Judge's Recommendation [Doc. #34] is

therefore affirmed and adopted for the reasons set forth therein.

IT IS THEREFORE ORDERED that Petitioner's Motion to Vacate, Set Aside, or Correct Sentence pursuant to 28 U.S.C. § 2255 [Doc. #28] is hereby GRANTED. IT IS FURTHER ORDERED that Petitioner's Judgment [Doc. #13] is VACATED, and that the Indictment [Doc. #1], Supervised Release Violation Petition [Doc. #21], and the Amended Supervised Release Violation Petition [Doc. #23] are hereby DISMISSED. To the extent that Petitioner made any payments toward the \$100 special assessment, IT IS ORDERED that those amounts be returned to him.

This, the 23<sup>rd</sup> day of July, 2014.

  
United States District Judge